THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.4774 of 2006

Between:

Mohd.Jaleel and others … Petitioners

And

The Special Deputy Collector, Land Acquisition,

Municipal Corporation of Hyderabad, Hyderabad,

And another …Respondents

ORDER:

The petitioners are the absolute owners and possessors of mulgies bearing Nos.23-2-651, 23-1-1112, 1113, 1114 and 1114/1, 23-1-1037/1, 23-2-675, 23-2-673 & 674 and 23-2-671 situate at Panch Mohalla, Shalibanda, Hyderabad, and when the respondents wanted to demolish the said mulgies for the purpose of road widening and dispossess the petitioners without following due process of law, they have filed W.P.Nos.19042 and 19571 of 2005 and this Court disposed of the same, *inter alia*, directing the respondents not to dispossess the petitioners without following the due procedure

prescribed under law.

It is stated that in respect of adjacent property the respondents have issued notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') dispensing with the enquiry under Section 5-A of the Act. But, in so far the petitioners' property is concerned, the respondents have issued the impugned notification under Section 4(1) of the Act on 25.2.2006 dispensing with the enquiry under Section 5-A of the Act in exercise of powers under Section 17(4) of the Act. Thereafter, declaration under Section 6 of the Act was also issued on 25.2.2006 and published later. It is stated that the action of the respondents in dispensing with the enquiry under Section 5-A of the Act is illegal and contrary to provisions of sub-sections (1) and (2) of Section 17 of the Act. It is stated that there is no imminent urgency for taking possession of the said land for the purpose of road widening. It is always just and proper to conduct enquiry under Section 5-A of the Act after issuing notification under Section 4(1) of the Act.

Heard the learned counsel for the petitioners and the learned Government Pleader on behalf of the respondents.

The learned Government Pleader appearing on behalf of the respondents fairly submits that in view of the judgment of the Supreme Court in ***State of U.P., v. Lucknow Development*** and as there is no imminent urgency available in this case to dispense with the enquiry under Section 5-A of the Act, the same may be conducted in accordance with law.

Having regard to the facts and circumstances of the case, the declaration under Section 6 of the Act is set aside and the issuance of notice under Section 4(1) of the Act is upheld and the respondents are directed to conduct enquiry under Section 5-A of the Act and take appropriate action in accordance with law.

The writ petition is accordingly allowed. No order as to costs.

(V.ESWARAIAH, J.)

13.3.2006

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